



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590



AUG 26 2004

REPLY TO THE ATTENTION OF

SR-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Request for Information Pursuant to Section 104(e) of CERCLA
for Solvay Coke and Gas, Milwaukee, Wisconsin

Dear Sir or Madam:

The U.S. Environmental Protection Agency (U.S. EPA or Agency) is investigating the Solvay Coke and Gas Site (the Site) located at 311 East Green Avenue, Milwaukee, Milwaukee County, Wisconsin. The U.S. EPA believes that you may have information that is relevant to the investigation of contamination at the Site. Enclosure one (1) is a summary of the history of this Site and the results of U.S. EPA's investigation.

The U.S. EPA asks that you provide information and documents relating to the contamination of the Site. Please respond completely and truthfully to this Information Request and its questions in Enclosure two (2) within thirty (30) days of your receipt of this letter. Instructions for completion of this response are in Enclosure three (3); definitions of terms used in this Information Request and its questions are in Enclosure four (4).

You may consider some information that we request as confidential. If you wish to assert a privilege of business confidentiality, you must respond to the question and advise U.S. EPA that you request that the Agency treat the response as confidential business information. Directions to assert a claim of business confidentiality are in Enclosure five (5).

The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq., (commonly referred to as CERCLA or Superfund) gives the U.S. EPA the authority to: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by a site, and 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, U.S. EPA has authority to gather information and to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility,
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility and,
- C. The ability of a person to pay for or to perform a cleanup.

Enclosure six (6) is a summary of this legal authority. Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to Section 104(e)(5) of CERCLA, as amended. Failure to respond and/or failure to justify the non-response can result in similar penalties under this Section. Further, Section 104(e)(5) authorizes the United States to seek penalties from a Federal Court of up to twenty-seven thousand five hundred dollars (\$27,500) for each day of continued noncompliance. The U.S. EPA considers noncompliance to be not only failure to respond to the Information Request, but also failure to respond completely and truthfully to each question in the Information Request.

The provision of false, fictitious or fraudulent statements or misrepresentations may subject you or your firm to criminal penalties of up to twenty-five thousand dollars (\$25,000) or up to five (5) years imprisonment, or both, under 18 U.S.C. §1001.

The U.S. EPA has the authority to use the information requested in an administrative, civil, or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

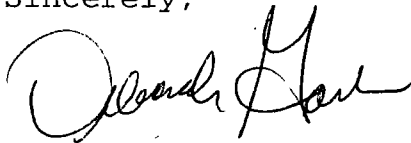
Return your response to U.S. EPA within thirty (30) days of your receipt of this Information Request. Mail your response to:

Craig Melodia
Associate Regional Counsel
U.S. Environmental Protection Agency
Office of Regional Counsel (C-14J)
77 W. Jackson
Chicago, IL 60604

Address all legal questions to Mr. Craig Melodia, Associate Regional Council at (312)353-8870. Address technical questions to the Remedial Project Manager, Ms. Demaree Collier, at (312) 886-0214.

We appreciate your effort to respond fully and promptly to this Information Request.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Garber", written in a cursive style.

Deborah Garber, Section Chief
Office of Regional Counsel

Enclosure:

1. Site History
2. Questions
3. Instructions
4. Definitions
5. Confidential Business Information
6. Description of Legal Authority
7. Small Business Enclosure

Enclosure 1
SITE HISTORY

The Solvay Coke & Gas site is located at 311 East Greenfield Avenue, Milwaukee, Milwaukee County, Wisconsin (Site). The Site is the former location of a manufactured coke and gas operation and covers approximately 46 acres in a primarily industrial and commercial area north of the Kinnickinnic River and west of the Lincoln Memorial Harbor. The Site is bordered by East Greenfield Avenue on the north, railroad tracks and a coal storage area on the northeast, the Kinnickinnic River on the east and south, and railroad tracks to the west. Residential areas are located 0.5 miles of the Site.

In 2003, Water Street Holdings Co., purchased the Site from the Cliffs Mining Company. The Site is currently owned by Golden Marina Causeway, L.L.C. Prior to 2003, the Site was occupied by the Wisconsin Wrecking Company under a lease purchase agreement with the Cliffs Mining Company. Coke and gas production took place at the Site from the late 1800's through the early 1980's, with portions of the Site used primarily for coal storage. Portions of the Site have been owned and/or operated by a number of entities, including the Milwaukee Electric Railway and Light Co., Milwaukee Coke & Gas Co., Milwaukee Solvay Coke Co., Wisconsin Coke Company Inc., Milwaukee Solvay Coke Company Inc., Illinois Steel Co., Minerva Iron Co., Thomas Furnace Co., Milwaukee Blast Furnace Co., Pere Marquette Railway Co., Chesapeake & Ohio Railway Co., Pickands Mather & Co., and Cliffs Mining Co. The area immediately south of the coke and gas production area was once occupied by the Suhm Leather Company tannery. By 1910, the tannery area was occupied by the Fred Rueping Leather Company, which performed chrome tanning and operated a laboratory.

U.S. EPA, Cliffs Mining Company, Wisconsin Wrecking Company, L.L.C., and Water Street Holdings, L.L.C., entered into an Administrative Order by Consent (AOC), dated February 14, 2003, pursuant to Sections 106(a), 107 and 122 of CERCLA, for performance of removal actions at the Site and reimbursement of U.S. EPA's oversight costs. Work to be performed under the AOC includes removal and disposal of all asbestos containing material, above ground storage tanks and material within those tanks, all spills and contaminated surface soil around the above ground tanks, material and contaminated soil in an open pit, and all other hazardous substances inside the buildings and other structures located on the Site. The AOC does not address any subsurface contamination or any other release or threat of release of a hazardous substance into the environment from the Site. The removal actions required by the AOC are expected to be completed during the summer of 2004.

Enclosure 2

Questions

1. Did you ever use, purchase, store, treat, dispose, transport or otherwise handle any materials, including hazardous substances, at the Site? If the answer to the preceding question is anything but an unqualified "no", identify:
 - a) the chemical composition, characteristics, physical state (e.g., solid, liquid) of each material;
 - b) who supplied you with such material;
 - c) how such materials were used, purchased, generated, stored, treated, transported, disposed of or otherwise handled by you;
 - d) when such materials were used, purchased, generated, stored, treated, transported, disposed of or otherwise handled by you;
 - e) where such materials were used, purchased, generated, stored, treated, transported, disposed of or otherwise handled by you;
 - f) the quantity of such materials used, purchased, generated, stored, treated, transported, disposed of or otherwise handled by you.
2. State the dates during which you owned, operated, or leased the Site and provide copies of all documents evidencing or relating to such ownership, operation, or lease arrangement (e.g., deeds, leases, etc.).
3. Identify all persons having knowledge or information about the generation, transportation, treatment, disposal, or other handling of hazardous substances by you, your contractors, lessors, or by prior owners or operators at the Site.
4. Identify the prior owners of the Site. For each prior owner, further identify:
 - a) the dates of ownership;

- b) all evidence showing that they controlled access to the Site; and,
 - c) all evidence that a hazardous substance, pollutant, or contaminant, was released or threatened to be released at the Site during the period that they owned the Site.
5. Identify the prior operators, including lessors, of the Site.

For each operator, further identify:

- a) the dates of operation;
 - b) the nature of prior operations at the Site;
 - c) all evidence that they controlled access to the Site;
 - d) all evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Site and/or its solid waste units during the period that they were operating the Site.
6. Have you or any other person working with you or on your behalf ever accepted waste materials, including hazardous substances, for transportation to the Site from any person? If the answer to this question is anything but an unequivocal "no", identify:
- a) The persons from whom you or such other persons accepted waste materials for transport to the Site;
 - b) Every date on which waste materials were so accepted or transported;
 - c) For each transaction, the nature of the waste materials accepted or transported, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the material was used or the process which generated the material;
 - d) For each material, describe any warnings given to you with respect to its handling;
 - e) The owner of the materials so accepted or transported;

- f) The quantity of the material involved (weight or volume) in each transaction and the total quantity for all transactions;
7. Identify all persons, including yourself, who may have arranged for disposal or treatment or arranged for transportation for disposal or treatment of waste materials, including hazardous substances, at the Site. In addition, identify the following:
- a) The persons with whom you or such other persons made such arrangements;
 - b) Every date on which such arrangements took place;
 - c) For each transaction, the nature of the waste material or hazardous substance; including the chemical content, characteristics, physical state (e.g., solid, liquid) and the process for which the substance was used or the process which generated the substance;
 - d) The owner of the waste materials or hazardous substances so accepted or transported;
 - e) The quantity of the waste materials or hazardous substances involved (weight or volume) in each transaction and the total quantity for all transactions;
 - f) The person(s) who selected the Site as the place to which the waste materials or hazardous substances were to be transported;
 - g) Where the person identified in f) above intended to have such hazardous substances or waste materials transported and all evidence of this intent;
 - h) What was actually done to the waste materials or hazardous substances once they were brought to the Site;
 - i) The final disposition of each of the waste materials or hazardous substances involved in such transactions;
 - j) The measures taken by you to determine the actual methods, means, and site of treatment or disposal of the waste material and hazardous substances involved in each transaction;

- k) The type and number of containers in which the waste materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the Site, and all markings on such containers;
 - l) The price paid for (i) transport or (ii) disposal of (iii) or both, of each waste material and hazardous substance;
 - m) All documents containing information responsive to a)-l) above, or in lieu of identification of all relevant documents, provide copies of all such documents;
 - n) All persons with knowledge, information, or documents responsive to a)-l) above.
8. Identify the acts or omissions of any person, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants, and damages resulting therefrom.
9. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Requests or who may be able to provide additional responsive documents, identify such persons.
10. Provide copies of all local, state and federal environmental permits ever granted for the Facility or any part thereof (e.g., RCRA permits, NPDES permits, etc.).

Enclosure 3

INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Precede each answer with the number of the question to which it corresponds.
3. In answering each question, identify all persons and contributing sources of information.
4. Although the U.S. EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes the U.S. EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
5. In answering each question, identify all persons and contributing sources of information.
6. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify U.S. EPA as soon as possible.
7. For any document submitted in response to a question, indicate the number of the question to which it responds.
8. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
9. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under a penalty of law that this document and all Enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. There are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

10. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
11. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 5.

Enclosure 4

DEFINITIONS

1. As used in this letter, words in the singular also include the neutral and words in the masculine gender also include the feminine and vice versa.
2. *The Site* referenced in these documents shall mean the Solvay Coke and Gas Site, located in Milwaukee, Milwaukee County, Wisconsin.
3. The term *arranged for* means every separate contract or other agreement between two or more persons, whether written or oral.
4. The term *documents* includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control, or known by you to exist, including originals, all prior drafts, and all non-identical copies.
5. The term *hazardous substance* shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.
6. The term *identify* means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
7. The term *identify* means, with respect to a corporation, partnership, businesses trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
8. The term *identify* means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
9. The term *person* as used herein includes, in the plural as well as the singular, any natural person, firm, contractor,

unincorporated association, partnership, corporations, trust or a governmental entity, unless the context indicates otherwise.

10. The term, *pollutant* or *contaminant*, shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
11. The term *release* shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.
12. The term *you* shall mean any natural person, firm, contractor, unincorporated association, partnership, corporation, subsidiary, parent, predecessor or successor in interest, trust or a governmental entity, unless the context indicates otherwise, to which this information request has been sent. The term *you* also includes any officer, managers, employees, contractors, trustees, successors, assigns, and agents of any natural person, firm, contractor, unincorporated association, partnership, corporation, subsidiary, parent, predecessor or successor in interest to the current firm, trust or a governmental entity unless the context indicates otherwise
13. The term *waste material* shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, pollutants or contaminants, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes, and any other material containing hazardous constituents.
14. All terms not defined herein will have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R., Part 300 or 40 C.F.R., Part 260-280, in which case, the statutory or regulatory definitions will apply.

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (U.S. EPA or Agency) is requesting. You cannot withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 et seq requires that the U.S. EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (See 41 Federal Register 36902 (September 1, 1976), as amended at 43 Federal Register 4000 (September 8, 1978); 50 Federal Register 51661 (December 18, 1985)). If no such claim accompanies the information when the U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA), because, as stated in Section 104(e)(7)(F), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the U.S. EPA to treat the information or record as "confidential", you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or document(s) you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential," and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the

Agency considers the information confidential, e.g., until a specific date or until the occurrence of a specific event;

2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether the U.S. EPA or other federal agency has made pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;
5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;
6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. 2.201(i). If you make this assertion, explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future;
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. 2.208(e), the burden of substantiating confidentiality rests with you. The U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. 2.205(c). If you do not identify this information and documents as "confidential," your comments will be available to the public without further notice to you.

ATTACHMENT 6

DESCRIPTION OF LEGAL AUTHORITY

The Federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. (commonly referred to as CERCLA or Superfund) gives U.S. EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site, and, 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. §9604 (e)(2), U.S. EPA has broad information gathering authority which allows U.S. EPA to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;
- C. The ability to pay for or to perform a clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. §1001) authorize separate penalties if the responses contain false, fictitious or fraudulent statements. The U.S. EPA has the authority to use the information requested in this Information Request in an administrative, civil or criminal action.

RECIPIENTS OF U.S. EPA REQUEST FOR INFORMATION

CSX Corporation
500 Water Street, C900
Jacksonville, Florida 32202

Cleveland-Cliffs Inc.
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Meissner Tierney Fisher & Nichols
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Milwaukee, Wisconsin 53202-6622

Wisconsin Energy Company
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Milwaukee, Wisconsin 53203

U.S. Steel Corporation
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U.S. Bancorp Center
Minneapolis, MN 55402

Golden Marina Causeway LLC
311 E. Greenfield Ave.
Milwaukee, Wisconsin 53204

Water Street Holdings LLC
W65N753 Washington Avenue
Cedarburg, Wisconsin 53012

Wisconsin Wrecking Company, LLC
11523 W. 5 Mile Road
Franksville, Wisconsin 53126

Fred Rueping Leather Company
96 Doty Street
Fond Du Lac, Wisconsin 54935-4935

American Natural Resources Company
10001 Louisiana Street
Houston, Texas 77002

Diamond Shamrock Corporation
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Maxus Energy Corporation
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The Woodlands, Texas 77380

Moore McCormack Resource, Inc.
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Suhm Laboratories Inc.
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Glendale, Wisconsin 53129